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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,767	02/10/2006	Christoph Muther	06-162	5327
34704 7590 05/02/2008 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510				
EXAMINER				
KRECK, JOHN J				
ART UNIT		PAPER NUMBER		
3672				
MAIL DATE		DELIVERY MODE		
05/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,767

Applicant(s)

MUTHER, CHRISTOPH

Examiner

John Kreck

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The amendment dated 6/13/07 is entered.

Claims 1-13 are pending.

Applicant's election without traverse of claims 1-13 in the reply filed on 6/13/07 is acknowledged.

The references cited in the Search Report dated 03.06.2005 have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO/SB/08A and 08B form, must be filed within the set period for reply to this Office action.

1. Applicant has amended the claims to invoke 35 USC 112, sixth paragraph. Applicant claims "means for forming a ceramic binder system". This means is understood to include the chemicals described in the specification and known by the trade names "Consolid444®" and "Solidry®". Longo, Sr. does not anticipate these chemicals.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over SOLIDRY® CONC safety data sheet; CONSOLID® 444 safety data sheet; "Sourcebook of Alternative Technologies for Freshwater Augmentation in East and Central Europe" ; and Longo, Sr.

Note that the safety data sheets are dated 03/09/2003 and 18/12/2003, but are useful as teaching the constituents of the known Solidry® system. The "Sourcebook" is printed from archive.org, which indicates that it was published in the web in 2002.

The "Sourcebook" describes a waste disposal site (see page 2 of printout, after "The landfill...") including at least two water tight layers. The Sourcebook fails to explicitly disclose the trench, but teaches the "means for forming i.e. Consolid®C444 and Solidry®.

The safety data sheets provide evidence that the material includes constituents of a ceramic binder.

Longo teaches that landfills can advantageously be made with a trench (6). This keeps the waste in place.

Therefore one of ordinary skill in the art at the time of invention would have found it obvious to have modified the system described in the "Sourcebook" to have included a trench as called for in claims 1.

RE claim 2: the plastic film is described in the "Sourcebook". insofar as the sourcebook lacks disclosure of the "flat" feature, this is shown by Longo, and would have been an obvious design choice, based on engineering requirements.

RE claim 4: Longo lacks explicit disclosure of the angle of the trench, however one of ordinary skill in the art would have found an angle as claimed to be obvious, since Longo appears to show a 135° angle (i.e. 45° slope).

RE claim 5: the sourcebook describes the "graded" base. Official Notice is taken of the fact that it is common to grade such bases at up to 10°: in order to facilitate drainage. Therefore one of ordinary skill in the art at the time of invention would have found it obvious to have modified the system described in the sourcebook to be sloped at up to 10°. Applicant has not traversed this taking of Official Notice, thus the fact relied upon is taken as admitted prior art.

RE claims 6-8: the covering is taught by Longo.

RE claims 9-13: the claimed features of the binder system are believed to be anticipated by the Solidry® and Consolid® system, as taught by the "sourcebook" and/or the safety data sheets. See page 9, last paragraph of applicant's specification.

Response to Arguments

3. Applicant's arguments filed 1/25/08 have been fully considered but they are not persuasive. Applicant suggests that there is no clear articulation of the modification and/or the motivation. Applicant's attention is drawn to the 7/20/07 Office Action at page 5: the motivation is shown on lines 10 and 11 ; and the statement of modification

is found on lines 12-14. It is noted that the statement of rejection has been modified to reflect the amended claims; since the claims no longer require a ceramic binder system, but merely require "means for forming" (i.e. "Consolid444®" and "Solidry®").

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is 571-272-7042. The examiner can normally be reached on Mon-Fri 6am-3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Kreck/
Primary Examiner, Art Unit 3672

28 April 2008